

**07 CIV 8213**

NOURSE & BOWLES, LLP  
Attorneys for Plaintiff  
SMT SHIPMANAGEMENT & TRANSPORT LTD.  
One Exchange Plaza  
At 55 Broadway  
New York, NY 10006-3030  
(212) 952-6200

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
SMT SHIPMANAGEMENT & TRANSPORT LTD., :  
: :  
Plaintiff, : :  
: : 07 Civ. ( )  
- against - : :  
: :  
TRANSPORTES COAL SEA DE VENEZUELA C.A., :  
: :  
Defendant. : :  
-----X

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF NEW YORK )

John P. Vayda, being duly sworn, deposes and says:

1. I am a member of the firm of Nourse & Bowles, LLP attorneys for Plaintiff, SMT Shipmanagement & Transport Ltd., and make this affidavit in support of Plaintiff's application for the issuance of Process of Maritime Attachment and Garnishment pursuant to Rule B(1) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

2. Based upon my inquiries, those I have initiated and to the best of my information and belief, Defendant, Transportes Coal Sea De Venezuela C.A. is a foreign corporation and cannot be found within this District.

3. I have caused a search to be made which has not found Defendant listed in the New York telephone directory or in the Transportation Telephone Tickler published by The Journal of Commerce for the New York Metropolitan Area, in which maritime companies doing business within the District routinely list their names, addresses and telephone numbers. I have also caused a search to be made with the telephone directory assistance bureaus for this District (Area Codes 212, 718, 914), and have been informed that there are no listings for Defendant in any of these areas.

4. I have caused a search to be made through the Lexis/Nexis computer database of the files containing corporate records for the New York Department of State, which includes businesses registered to do business in New York, and no listing for Defendant has been found.

5. I have caused a search to be made through the Lexis/Nexis computer database of the files containing judgments and/or docket listings for the State of New York and no listings for Defendant have been found.

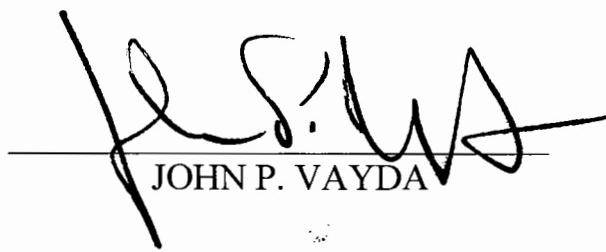
6. I have caused a "Google search" to be made of the internet which has not found Defendant to be listed or shown in New York.

7. I have found no listing in New York for Defendant in Lloyd's List of Shipowners.

8. I have telephoned Mark C. Flavin, Esq., counsel of record for Defendant in the arbitration between these parties and in the appeal to the Court of Appeals for the Second Circuit of the Opinion and Order confirming the award of arbitrators, and asked him if he is authorized to accept service of process on behalf of Defendant. Mr. Flavin replied "I'll find out."

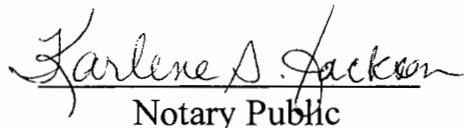
9. Accordingly, I respectfully submit, that Defendant cannot be found within the District and that process of maritime attachment and garnishment should be issued.

10. No previous application for an Order of Attachment or similar relief has been sought in this matter.



JOHN P. VAYDA

Sworn to before me this  
20<sup>th</sup> day of September, 2007.



Karlene S. Jackson  
Notary Public